

HOUSE BILL No. 1225

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-13-2-18.1; IC 5-2-18; IC 6-1.1-10; IC 6-2.5-5; IC 6-3-2-2.8; IC 10-11-2-21.5; IC 12-7-2; IC 12-31; IC 22-5-1.5; IC 23-17-31; IC 28-1-2-40; IC 34-54-12; IC 35-44-5; IC 36-2-13-7.5.

Synopsis: Illegal alien matters. Prohibits a state agency or political subdivision from providing federal, state, or local public benefits to a person who is not a: (1) United States citizen; or (2) qualified alien under the federal Immigration and Nationality Act and lawfully present in the United States. Requires a state agency or a political subdivision to verify the lawful presence in the United States of each individual who: (1) is at least 18 years of age; and (2) applies for federal, state, or local public benefits administered by the agency or political subdivision. Provides that: (1) a state agency or political subdivision may provide variations of the verification of lawful presence requirements; and (2) a person who makes a false, fictitious, or fraudulent statement of representation in an affidavit verifying lawful presence commits a Class D felony. Prohibits a person to knowingly employ an unauthorized alien. Requires the attorney general to: (1) investigate a complaint that an employer knowingly employed an unauthorized alien; (2) verify the work authorization of the alleged unauthorized alien with the federal government; (3) notify United States Immigration and Customs Enforcement, local law enforcement agencies, and the appropriate prosecuting attorney; and (4) maintain certain records of violation orders. Requires prosecuting attorneys to file actions against employers for knowingly employing unauthorized aliens after December 31, 2008. Requires a court to: (1) hold a hearing

(Continued next page)

Effective: July 1, 2008.

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January 14, 2008, read first time and referred to Committee on Interstate and International Cooperation.



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and make a determination of the action on an expedited basis; (2) if a person knowingly employs an unauthorized alien, order the employer to terminate the employment of unauthorized aliens, order the employer to file a signed affidavit, and place the employer on probation for three years; (3) order agencies to suspend all licenses held by the employer for the operation of the business location if the employer fails to file a sworn affidavit; (4) for a second violation during the probationary period, order agencies to revoke all licenses held by the employer for the operation of the business location; and (5) send copies of orders to the attorney general. Provides that a court may: (1) suspend an employer's licenses if an employer knowingly employs an unauthorized alien; and (2) consider only the federal government's verification or status information in determining whether an individual is an unauthorized alien. Establishes: (1) a rebuttable presumption that an employer did not knowingly employ an unauthorized alien if the employer verified the employment authorization of an individual through the federal pilot program; and (2) an affirmative defense if the employer complied in good faith with the federal employment verification requirements. Makes it a Class C misdemeanor to knowingly file a false or frivolous allegation with the attorney general. Makes it a: (1) Class A misdemeanor to transport or move (and a Class D felony for a subsequent offense); and (2) Class A misdemeanor to conceal, harbor, or shelter from detection (and a Class D felony for a subsequent offense); an alien knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law. Prohibits a political subdivision from: (1) enacting an ordinance, resolution, rule, or policy that prohibits or limits another political subdivision or governmental body from sending, receiving, maintaining, or exchanging information on the citizenship or immigration status of an individual; and (2) providing certain assistance to a person who is not lawfully present in the United States. Requires the budget agency to withhold allotments of state and federal funds for highways, roads, and streets of political subdivisions in violation of these prohibitions. Requires a sheriff to make a reasonable effort to determine the citizenship or immigration status of certain persons. Prohibits a state financial institution from providing financial services to an individual who is present in the United States but not lawfully present in the United States. Makes it a Class D infraction for a nonprofit corporation to provide assistance to an individual who is not lawfully in the United States. Provides that a nonprofit corporation that has a judgment loses the corporation's exemption status under income, sales, and property taxes for one year. Requires the superintendent of the state police department to: (1) negotiate terms of a memorandum of understanding concerning a pilot project for the enforcement of federal immigration and customs laws; (2) designate appropriate local law enforcement officers to be trained under the memorandum of understanding; and (3) file a report on the progress of entering into the memorandum of understanding.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

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HOUSE BILL No. 1225

A BILL FOR AN ACT to amend the Indiana Code concerning general provisions.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-13-2-18.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]: **Sec. 18.1. The budget agency shall, to the extent permitted**
4 **by federal law, withhold allotments of state and federal funds for**
5 **highways, roads, and streets from a political subdivision that**
6 **violates IC 5-2-18 until the political subdivision is no longer in**
7 **violation of IC 5-2-18.**

8 SECTION 2. IC 5-2-18 IS ADDED TO THE INDIANA CODE AS
9 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2008]:

11 **Chapter 18. Citizenship and Immigration Status Information**

12 **Sec. 1. As used in this chapter, "political subdivision" has the**
13 **meaning set forth in IC 36-1-2-13.**

14 **Sec. 2. A political subdivision may not enact an ordinance, a**
15 **resolution, a rule, or a policy that prohibits or limits another**



political subdivision or a governmental body (as defined in IC 5-22-2-13), including a law enforcement officer (as defined in IC 5-2-1-2), a state or local official, or a state or local government employee, from the following with regard to information of the citizenship or immigration status of an individual:

- (1) Communicating or cooperating with federal officials.
- (2) Sending to or receiving information from the United States Department of Homeland Security.
- (3) Maintaining information.
- (4) Exchanging information with another federal, state, or local government entity.

Sec. 3. A political subdivision may not knowingly assist a person who is not lawfully present in the United States in obtaining employment, housing, higher education, or other types of financial assistance.

SECTION 3. IC 6-1.1-10-16, AS AMENDED BY P.L.196-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) **Except as provided in section 44 of this chapter**, all or part of a building is exempt from property taxation if it is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes.

(b) **Except as provided in section 44 of this chapter**, a building is exempt from property taxation if it is owned, occupied, and used by a town, city, township, or county for educational, literary, scientific, fraternal, or charitable purposes.

(c) **Except as provided in section 44 of this chapter**, a tract of land, including the campus and athletic grounds of an educational institution, is exempt from property taxation if:

- (1) a building that is exempt under subsection (a) or (b) is situated on it;
- (2) a parking lot or structure that serves a building referred to in subdivision (1) is situated on it; or
- (3) the tract:
 - (A) is owned by a nonprofit entity established for the purpose of retaining and preserving land and water for their natural characteristics;
 - (B) does not exceed five hundred (500) acres; and
 - (C) is not used by the nonprofit entity to make a profit.

(d) **Except as provided in section 44 of this chapter**, a tract of land is exempt from property taxation if:

- (1) it is purchased for the purpose of erecting a building that is to be owned, occupied, and used in such a manner that the building

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will be exempt under subsection (a) or (b); and
 (2) not more than four (4) years after the property is purchased,
 and for each year after the four (4) year period, the owner
 demonstrates substantial progress and active pursuit towards the
 erection of the intended building and use of the tract for the
 exempt purpose. To establish substantial progress and active
 pursuit under this subdivision, the owner must prove the existence
 of factors such as the following:

(A) Organization of and activity by a building committee or
 other oversight group.

(B) Completion and filing of building plans with the
 appropriate local government authority.

(C) Cash reserves dedicated to the project of a sufficient
 amount to lead a reasonable individual to believe the actual
 construction can and will begin within four (4) years.

(D) The breaking of ground and the beginning of actual
 construction.

(E) Any other factor that would lead a reasonable individual to
 believe that construction of the building is an active plan and
 that the building is capable of being completed within eight (8)
 years considering the circumstances of the owner.

If the owner of the property sells, leases, or otherwise transfers a tract
 of land that is exempt under this subsection, the owner is liable for the
 property taxes that were not imposed upon the tract of land during the
 period beginning January 1 of the fourth year following the purchase
 of the property and ending on December 31 of the year of the sale,
 lease, or transfer. The county auditor of the county in which the tract
 of land is located may establish an installment plan for the repayment
 of taxes due under this subsection. The plan established by the county
 auditor may allow the repayment of the taxes over a period of years
 equal to the number of years for which property taxes must be repaid
 under this subsection.

(e) **Except as provided in section 44 of this chapter**, personal
 property is exempt from property taxation if it is owned and used in
 such a manner that it would be exempt under subsection (a) or (b) if it
 were a building.

(f) **Except as provided in section 44 of this chapter**, a hospital's
 property that is exempt from property taxation under subsection (a),
 (b), or (e) shall remain exempt from property taxation even if the
 property is used in part to furnish goods or services to another hospital
 whose property qualifies for exemption under this section.

(g) **Except as provided in section 44 of this chapter**, property

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owned by a shared hospital services organization that is exempt from federal income taxation under Section 501(c)(3) or 501(e) of the Internal Revenue Code is exempt from property taxation if it is owned, occupied, and used exclusively to furnish goods or services to a hospital whose property is exempt from property taxation under subsection (a), (b), or (e).

(h) This section does not exempt from property tax an office or a practice of a physician or group of physicians that is owned by a hospital licensed under IC 16-21-1 or other property that is not substantially related to or supportive of the inpatient facility of the hospital unless the office, practice, or other property:

- (1) provides or supports the provision of charity care (as defined in IC 16-18-2-52.5), including providing funds or other financial support for health care services for individuals who are indigent (as defined in IC 16-18-2-52.5(b) and IC 16-18-2-52.5(c)); or
- (2) provides or supports the provision of community benefits (as defined in IC 16-21-9-1), including research, education, or government sponsored indigent health care (as defined in IC 16-21-9-2).

However, participation in the Medicaid or Medicare program alone does not entitle an office, practice, or other property described in this subsection to an exemption under this section.

(i) **Except as provided in section 44 of this chapter**, a tract of land or a tract of land plus all or part of a structure on the land is exempt from property taxation if:

- (1) the tract is acquired for the purpose of erecting, renovating, or improving a single family residential structure that is to be given away or sold:
 - (A) in a charitable manner;
 - (B) by a nonprofit organization; and
 - (C) to low income individuals who will:
 - (i) use the land as a family residence; and
 - (ii) not have an exemption for the land under this section;
- (2) the tract does not exceed three (3) acres;
- (3) the tract of land or the tract of land plus all or part of a structure on the land is not used for profit while exempt under this section; and
- (4) not more than four (4) years after the property is acquired for the purpose described in subdivision (1), and for each year after the four (4) year period, the owner demonstrates substantial progress and active pursuit towards the erection, renovation, or improvement of the intended structure. To establish substantial

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progress and active pursuit under this subdivision, the owner must prove the existence of factors such as the following:

(A) Organization of and activity by a building committee or other oversight group.

(B) Completion and filing of building plans with the appropriate local government authority.

(C) Cash reserves dedicated to the project of a sufficient amount to lead a reasonable individual to believe the actual construction can and will begin within five (5) years of the initial exemption received under this subsection.

(D) The breaking of ground and the beginning of actual construction.

(E) Any other factor that would lead a reasonable individual to believe that construction of the structure is an active plan and that the structure is capable of being:

(i) completed; and

(ii) transferred to a low income individual who does not receive an exemption under this section;

within eight (8) years considering the circumstances of the owner.

(j) An exemption under subsection (i) terminates when the property is conveyed by the nonprofit organization to another owner. When the property is conveyed to another owner, the nonprofit organization receiving the exemption must file a certified statement with the auditor of the county, notifying the auditor of the change not later than sixty (60) days after the date of the conveyance. The county auditor shall immediately forward a copy of the certified statement to the county assessor. A nonprofit organization that fails to file the statement required by this subsection is liable for the amount of property taxes due on the property conveyed if it were not for the exemption allowed under this chapter.

(k) If property is granted an exemption in any year under subsection (i) and the owner:

(1) ceases to be eligible for the exemption under subsection (i)(4);

(2) fails to transfer the tangible property within eight (8) years after the assessment date for which the exemption is initially granted; or

(3) transfers the tangible property to a person who:

(A) is not a low income individual; or

(B) does not use the transferred property as a residence for at least one (1) year after the property is transferred;

the person receiving the exemption shall notify the county recorder and

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the county auditor of the county in which the property is located not later than sixty (60) days after the event described in subdivision (1), (2), or (3) occurs. The county auditor shall immediately inform the county assessor of a notification received under this subsection.

(l) If subsection (k)(1), (k)(2), or (k)(3) applies, the owner shall pay, not later than the date that the next installment of property taxes is due, an amount equal to the sum of the following:

(1) The total property taxes that, if it were not for the exemption under subsection (i), would have been levied on the property in each year in which an exemption was allowed.

(2) Interest on the property taxes at the rate of ten percent (10%) per year.

(m) The liability imposed by subsection (l) is a lien upon the property receiving the exemption under subsection (i). An amount collected under subsection (l) shall be collected as an excess levy. If the amount is not paid, it shall be collected in the same manner that delinquent taxes on real property are collected.

(n) Property referred to in this section shall be assessed to the extent required under IC 6-1.1-11-9.

SECTION 4. IC 6-1.1-10-16.7, AS AMENDED BY P.L.181-2006, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16.7. **(a) Except as provided in section 44 of this chapter**, all or part of real property is exempt from property taxation if:

(1) the improvements on the real property were constructed, rehabilitated, or acquired for the purpose of providing housing to income eligible persons under the federal low income housing tax credit program under 26 U.S.C. 42;

(2) the real property is subject to an extended use agreement under 26 U.S.C. 42 as administered by the Indiana housing and community development authority; and

(3) the owner of the property has entered into an agreement to make payments in lieu of taxes under IC 36-1-8-14.2, IC 36-2-6-22, or IC 36-3-2-11.

SECTION 5. IC 6-1.1-10-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) **Except as provided in section 44 of this chapter**, tangible property is exempt from property taxation if it is owned by an Indiana not-for-profit corporation which is organized and operated for the primary purpose of coordinating, promoting, encouraging, housing, or providing financial support to activities in the field of fine arts.

(b) For purposes of this section, the field of fine arts includes, but

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is not limited to, the following art forms:

- (1) classical, semi-classical, or modern instrumental and vocal music;
- (2) classical dance, including ballet, modern adaptations of formal dance, and ethnic dance;
- (3) painting, drawing, and the graphic arts;
- (4) sculpture;
- (5) architecture;
- (6) drama and musical theater.

SECTION 6. IC 6-1.1-10-18.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18.5. (a) This section does not exempt from property tax an office or a practice of a physician or group of physicians that is owned by a hospital licensed under IC 16-21-1 or other property that is not substantially related to or supportive of the inpatient facility of the hospital unless the office, practice, or other property:

- (1) provides or supports the provision of charity care (as defined in IC 16-18-2-52.5), including funds or other financial support for health care services for individuals who are indigent (as defined in IC 16-18-2-52.5(b) and IC 16-18-2-52.5(c)); or
- (2) provides or supports the provision of community benefits (as defined in IC 16-21-9-1), including research, education, or government sponsored indigent health care (as defined in IC 16-21-9-2).

However, participation in the Medicaid or Medicare program, alone, does not entitle an office, a practice, or other property described in this subsection to an exemption under this section.

(b) **Except as provided in section 44 of this chapter**, tangible property is exempt from property taxation if it is:

- (1) owned by an Indiana nonprofit corporation; and
- (2) used by that corporation in the operation of a hospital licensed under IC 16-21, a health facility licensed under IC 16-28, or in the operation of a residential facility for the aged and licensed under IC 16-28, or in the operation of a Christian Science home or sanatorium.

(c) Property referred to in this section shall be assessed to the extent required under IC 6-1.1-11-9.

SECTION 7. IC 6-1.1-10-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. **Except as provided in section 44 of this chapter**, tangible property is exempt from property taxation if it is:

- (1) owned by a manual labor school, a technical high school, a

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trade school, or a college which is incorporated within this state;
and

(2) used, and in the case of real property actually occupied, for the purpose for which the institution is incorporated.

However, the institution's real property which is exempt from taxation under this section may not exceed eight hundred (800) acres in any one (1) county of this state.

SECTION 8. IC 6-1.1-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. (a) **Except as provided in section 44 of this chapter**, the following tangible property is exempt from property taxation if it is owned by, or held in trust for the use of, a church or religious society:

(1) A building that is used for religious worship.

(2) The pews and furniture contained within a building that is used for religious worship.

(3) The tract of land upon which a building that is used for religious worship is situated.

(b) **Except as provided in section 44 of this chapter**, the following tangible property is exempt from property taxation if it is owned by, or held in trust for the use of, a church or religious society:

(1) A building that is used as a parsonage.

(2) The tract of land, not exceeding fifteen (15) acres, upon which a building that is used as a parsonage is situated.

(c) To obtain an exemption for parsonages, a church or religious society must provide the county assessor with an affidavit at the time the church or religious society applies for the exemptions. The affidavit must state that:

(1) all parsonages are being used to house one (1) of the church's or religious society's rabbis, priests, preachers, ministers, or pastors; and

(2) none of the parsonages are being used to make a profit.

The affidavit shall be signed under oath by the church's or religious society's head rabbi, priest, preacher, minister, or pastor.

(d) Property referred to in this section shall be assessed to the extent required under IC 6-1.1-11-9.

SECTION 9. IC 6-1.1-10-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. **Except as provided in section 44 of this chapter**, a tract of land, not exceeding one (1) acre, and the improvements situated on the land are exempt from property taxation if they are:

(1) owned by a church; and

(2) exclusively used by the church as a dormitory for the students of

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a college or university which is located within this state.

SECTION 10. IC 6-1.1-10-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. (a) Subject to the limitations contained in subsection (b) of this section **and except as provided in section 44 of this chapter**, tangible property is exempt from property taxation if it is owned by a fraternal beneficiary association which is incorporated, organized, or licensed under the laws of this state.

(b) This exemption does not apply to real property unless it is actually occupied and exclusively used by the association in carrying out the purpose for which it was incorporated, organized, or licensed.

SECTION 11. IC 6-1.1-10-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. (a) Subject to the limitations contained in subsection (b) of this section **and except as provided in section 44 of this chapter**, the following tangible property is exempt from property taxation if it is owned by a fraternity or sorority:

- (1) a tract of land not exceeding one (1) acre;
- (2) the improvements situated on the tract of land; and
- (3) all personal property.

(b) This exemption does not apply unless:

- (1) the fraternity or sorority is connected with, and under the supervision of, a college, university, or other educational institution; and
- (2) the property is used exclusively by the fraternity or sorority to carry out its purpose.

SECTION 12. IC 6-1.1-10-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. (a) Subject to the limitations contained in subsection (b) of this section **and except as provided in section 44 of this chapter**, tangible property is exempt from property taxation if it is owned by any of the following organizations:

- (1) The Young Men's Christian Association.
- (2) The Salvation Army, Inc.
- (3) The Knights of Columbus.
- (4) The Young Men's Hebrew Association.
- (5) The Young Women's Christian Association.
- (6) A chapter or post of Disabled American Veterans of World War I or II.
- (7) A chapter or post of the Veterans of Foreign Wars.
- (8) A post of the American Legion.
- (9) A post of the American War Veterans.

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(10) A camp of United States Spanish War Veterans.

(11) The Boy Scouts of America, one (1) or more of its incorporated local councils, or a bank or trust company in trust for the benefit of one (1) or more of its local councils.

(12) The Girl Scouts of the U.S.A., one or more of its incorporated local councils, or a bank or trust company in trust for the benefit of one (1) or more of its local councils.

(b) This exemption does not apply unless the property is exclusively used, and in the case of real property actually occupied, for the purposes and objectives of the organization.

SECTION 13. IC 6-1.1-10-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 28. **Except as provided in section 44 of this chapter**, a building and the land on which the building is located are exempt from property taxation if:

(1) the building is used for the purpose of gratuitously dispensing medicines and medical advice and aid to people; and

(2) the real property is owned by a corporation, institution, or association which exists exclusively for that charitable purpose.

SECTION 14. IC 6-1.1-10-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 32. **Except as provided in section 44 of this chapter**, tangible property is exempt from property taxation if it:

(1) is under the control of an executor;

(2) is to pass, under the terms of a will, to a municipal corporation or to a literary, scientific, benevolent, religious, or charitable institution; and

(3) would be exempt from property taxation if it had already been distributed to the devisee or legatee.

SECTION 15. IC 6-1.1-10-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 33. (a) **Except as provided in section 44 of this chapter**, tangible property which is under the control of an executor or a trustee is exempt from property taxation if it is to be used and applied:

(1) within this state for a municipal, educational, literary, scientific, religious, or charitable purpose; or

(2) for the benefit of this state or a state institution.

(b) Subsection (a) does not apply unless the executor or trustee diligently and in good faith carries out the provisions of the will or trust agreement by using and applying the property for the intended purpose.

SECTION 16. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 44. (a) A nonprofit corporation**

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that has a judgment entered against the nonprofit corporation under IC 23-17-31-1 for providing assistance to an individual who is not lawfully in the United States shall be suspended during the period described in subsection (b) from exemption from tax and from applying for recognition of exemption from tax under the following:

- (1) IC 6-1.1-10-16.
- (2) IC 6-1.1-10-16.7.
- (3) IC 6-1.1-10-18.
- (4) IC 6-1.1-10-18.5.
- (5) IC 6-1.1-10-20.
- (6) IC 6-1.1-10-21.
- (7) IC 6-1.1-10-22.
- (8) IC 6-1.1-10-23.
- (9) IC 6-1.1-10-24.
- (10) IC 6-1.1-10-25.
- (11) IC 6-1.1-10-28.
- (12) IC 6-1.1-10-32.
- (13) IC 6-1.1-10-33.

(b) A nonprofit corporation described under subsection (a) shall be suspended from exemption from tax and from applying for recognition of exemption from tax as provided under subsection (a) for one (1) year immediately following the date that the court enters a judgment against the nonprofit corporation for a violation under IC 23-17-31-1.

SECTION 17. IC 6-2.5-5-21, AS AMENDED BY P.L.2-2007, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. (a) For purposes of this section, "private benefit or gain" does not include reasonable compensation paid to an employee for work or services actually performed.

(b) Except as provided in section 43 of this chapter, sales of food and food ingredients are exempt from the state gross retail tax if:

- (1) the seller meets the filing requirements under subsection (d) and is any of the following:
 - (A) A fraternity, a sorority, or a student cooperative housing organization that is connected with and under the supervision of a postsecondary educational institution if no part of its income is used for the private benefit or gain of any member, trustee, shareholder, employee, or associate.
 - (B) Any:
 - (i) institution;
 - (ii) trust;

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- (iii) group;
- (iv) united fund;
- (v) affiliated agency of a united fund;
- (vi) nonprofit corporation;
- (vii) cemetery association; or
- (viii) organization;

that is organized and operated exclusively for religious, charitable, scientific, literary, educational, or civic purposes if no part of its income is used for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

(C) A group, an organization, or a nonprofit corporation that is organized and operated for fraternal or social purposes, or as a business league or association, and not for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

(D) A:

- (i) hospital licensed by the state department of health;
- (ii) shared hospital services organization exempt from federal income taxation by Section 501(c)(3) or 501(e) of the Internal Revenue Code;
- (iii) labor union;
- (iv) church;
- (v) monastery;
- (vi) convent;
- (vii) school that is a part of the Indiana public school system;
- (viii) parochial school regularly maintained by a recognized religious denomination; or
- (ix) trust created for the purpose of paying pensions to members of a particular profession or business who created the trust for the purpose of paying pensions to each other; if the taxpayer is not organized or operated for private profit or gain;

(2) the purchaser is a person confined to his home because of age, sickness, or infirmity;

(3) the seller delivers the food and food ingredients to the purchaser; and

(4) the delivery is prescribed as medically necessary by a physician licensed to practice medicine in Indiana.

(c) **Except as provided in section 43 of this chapter**, sales of food and food ingredients are exempt from the state gross retail tax if the seller is an organization described in subsection (b)(1), and the

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1 purchaser is a patient in a hospital operated by the seller.

2 (d) To obtain the exemption provided by this section, a taxpayer
3 must file an application for exemption with the department:

4 (1) before January 1, 2003, under IC 6-2.1-3-19 (repealed); or

5 (2) not later than one hundred twenty (120) days after the
6 taxpayer's formation.

7 In addition, the taxpayer must file an annual report with the department
8 on or before the fifteenth day of the fifth month following the close of
9 each taxable year. If a taxpayer fails to file the report, the department
10 shall notify the taxpayer of the failure. If within sixty (60) days after
11 receiving such notice the taxpayer does not provide the report, the
12 taxpayer's exemption shall be canceled. However, the department may
13 reinstate the taxpayer's exemption if the taxpayer shows by petition that
14 the failure was due to excusable neglect.

15 SECTION 18. IC 6-2.5-5-25 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. (a) **Except as**
17 **provided in section 43 of this chapter**, transactions involving tangible
18 personal property or service are exempt from the state gross retail tax,
19 if the person acquiring the property or service:

20 (1) is an organization described in section 21(b)(1) of this
21 chapter;

22 (2) primarily uses the property or service to carry on or to raise
23 money to carry on its not-for-profit purpose; and

24 (3) is not an organization operated predominantly for social
25 purposes.

26 (b) **Except as provided in section 43 of this chapter**, transactions
27 occurring after December 31, 1976, and involving tangible personal
28 property or service are exempt from the state gross retail tax, if the
29 person acquiring the property or service:

30 (1) is a fraternity, sorority, or student cooperative housing
31 organization described in section 21(b)(1)(A) of this chapter; and

32 (2) uses the property or service to carry on its ordinary and usual
33 activities and operations as a fraternity, sorority, or student
34 cooperative housing organization.

35 SECTION 19. IC 6-2.5-5-26 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26. (a) **Except as**
37 **provided in section 43 of this chapter**, sales of tangible personal
38 property are exempt from the state gross retail tax, if:

39 (1) the seller is an organization that is described in section
40 21(b)(1) of this chapter;

41 (2) the organization makes the sale to make money to carry on a
42 not-for-profit purpose; and

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(3) the organization does not make those sales during more than thirty (30) days in a calendar year.

(b) **Except as provided in section 43 of this chapter**, sales of tangible personal property are exempt from the state gross retail tax, if:

(1) the seller is an organization described in section 21(b)(1) of this chapter;

(2) the seller is not operated predominantly for social purposes;

(3) the property sold is designed and intended primarily either for the organization's educational, cultural, or religious purposes, or for improvement of the work skills or professional qualifications of the organization's members; and

(4) the property sold is not designed or intended primarily for use in carrying on a private or proprietary business.

(c) The exemption provided by this section does not apply to an accredited college or university's sales of books, stationery, haberdashery, supplies, or other property.

SECTION 20. IC 6-2.5-5-43 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 43. (a) A nonprofit corporation that has a judgment entered against the nonprofit corporation under IC 23-17-31-1 for providing assistance to an individual who is not lawfully in the United States shall be suspended during the period described in subsection (b) from exemption from tax and from applying for recognition of exemption from tax under the following:**

(1) IC 6-2.5-5-21.

(2) IC 6-2.5-5-25.

(3) IC 6-2.5-5-26.

(b) A nonprofit corporation described under subsection (a) shall be suspended from exemption from tax and from applying for recognition of exemption from tax as provided under subsection (a) for one (1) year immediately following the date that the court enters a judgment against the nonprofit corporation for a violation under IC 23-17-31-1.

SECTION 21. IC 6-3-2-2.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.8. (a)** Notwithstanding any provision of IC 6-3-1 through IC 6-3-7 **and except as provided in subsection (b)**, there shall be no tax on the adjusted gross income of the following:

(1) Any organization described in Section 501(a) of the Internal Revenue Code, except that any income of such organization which is subject to income tax under the Internal Revenue Code shall be subject to the tax under IC 6-3-1 through IC 6-3-7.

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(2) Any corporation which is exempt from income tax under Section 1363 of the Internal Revenue Code and which complies with the requirements of IC 6-3-4-13. However, income of a corporation described under this subdivision that is subject to income tax under the Internal Revenue Code is subject to the tax under IC 6-3-1 through IC 6-3-7. A corporation will not lose its exemption under this section because it fails to comply with IC 6-3-4-13 but it will be subject to the penalties provided by IC 6-8.1-10.

(3) Banks and trust companies, national banking associations, savings banks, building and loan associations, and savings and loan associations.

(4) Insurance companies subject to tax under IC 27-1-18-2, including a domestic insurance company that elects to be taxed under IC 27-1-18-2.

(5) International banking facilities (as defined in Regulation D of the Board of Governors of the Federal Reserve System (12 CFR 204)).

(b) A nonprofit corporation that has a judgment entered against the nonprofit corporation under IC 23-17-31-1 for providing assistance to an individual who is not lawfully in the United States shall be suspended during the period described in subsection (c) from exemption from tax and from applying for recognition of exemption from tax under subsection (a).

(c) A nonprofit corporation described under subsection (b) shall be suspended from exemption from tax and from applying for recognition of exemption from tax as provided under subsection (b) for one (1) year immediately following the date that the court enters a judgment against the nonprofit corporation for a violation under IC 23-17-31-1.

SECTION 22. IC 10-11-2-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 21.5. (a) As used in this section, "law enforcement officer" means a:**

- (1) police employee;**
- (2) county sheriff;**
- (3) county police officer;**
- (4) county police reserve officer;**
- (5) city police officer;**
- (6) city police reserve officer;**
- (7) town marshal;**
- (8) deputy town marshal; or**

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(9) member of a consolidated law enforcement department established under IC 36-3-1-5.1.

(b) The superintendent shall negotiate the terms of a memorandum of understanding between:

(1) the state; and

(2) the United States Department of Justice or the United States Department of Homeland Security;

concerning a pilot project for the enforcement of federal immigration and customs laws in Indiana.

(c) The memorandum of understanding described in subsection (a) must be signed on behalf of the state by the superintendent and governor, unless otherwise required by the United States Department of Justice or the United States Department of Homeland Security.

(d) The superintendent shall designate appropriate local law enforcement officers to be trained under the memorandum of understanding described in subsection (a).

(e) The department shall apply for federal funding, if available, for the costs associated with training local law enforcement officers under the memorandum of understanding described in subsection (a).

(f) A local law enforcement officer certified as trained in accordance with the memorandum of understanding described in subsection (a) may enforce federal immigration and customs laws while acting within the scope of the local law enforcement officer's duties.

SECTION 23. IC 12-7-2-9, AS AMENDED BY P.L.93-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. "Agency" means the following:

(1) For purposes of IC 12-10-12, the meaning set forth in IC 12-10-12-1.

(2) For purposes of IC 12-12.7-2, the meaning set forth in IC 12-12.7-2-1.

(3) For purposes of IC 12-31-1, the meaning set forth in IC 12-31-1-1.

SECTION 24. IC 12-7-2-76.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 76.6. (a) "Emergency medical condition", for purposes of IC 12-15-12, has the meaning set forth in IC 12-15-12-0.3.

(b) "Emergency medical condition", for purposes of IC 12-31-1, has the meaning set forth in IC 12-31-1-2.

SECTION 25. IC 12-7-2-85.1 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2008]: **Sec. 85.1. "Federal public benefit", for purposes of IC 12-31-1, has the meaning set forth in IC 12-31-1-3.**

SECTION 26. IC 12-7-2-142 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 142. "Political subdivision", for purposes of the following statutes, has the meaning set forth in IC 36-1-2-13:

(1) IC 12-8.

(2) IC 12-13-4.

(3) IC 12-31-1.

SECTION 27. IC 12-7-2-169.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 169.7. "SAVE program", for purposes of IC 12-31-1, has the meaning set forth in IC 12-31-1-4.**

SECTION 28. IC 12-7-2-185.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 185.5. "State or local public benefit", for purposes of IC 12-31-1, has the meaning set forth in IC 12-31-1-5.**

SECTION 29. IC 12-31 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 31. RESTRICTIONS ON PUBLIC BENEFITS

Chapter 1. Restrictions on Public Benefits to Illegal Aliens

Sec. 1. As used in this chapter, "agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of state government.

Sec. 2. As used in this chapter, "emergency medical condition" has the meaning set forth in 42 U.S.C. 1396b(v)(3).

Sec. 3. As used in this chapter, "federal public benefit" has the meaning set forth in 8 U.S.C. 1611.

Sec. 4. As used in this chapter, "SAVE program" means the Systematic Alien Verification of Entitlements program operated by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security.

Sec. 5. As used in this chapter, "state or local public benefit" has the meaning set forth in 8 U.S.C. 1621.

Sec. 6. This chapter shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

Sec. 7. Except as provided in section 9 of this chapter or in

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1 federal law, an agency or a political subdivision may not provide
 2 federal public benefits or state or local public benefits to an
 3 individual who is not:

- 4 (1) a United States citizen; or
- 5 (2) a qualified alien who is lawfully present in the United
 6 States under the federal Immigration and Nationality Act.

7 Sec. 8. Except as provided in section 9 of this chapter or in
 8 federal law, an agency or a political subdivision shall verify, in the
 9 manner provided in section 10 of this chapter, the lawful presence
 10 in the United States of each individual who:

- 11 (1) is at least eighteen (18) years of age; and
- 12 (2) applies for:

- 13 (A) federal public benefits; or
- 14 (B) state or local public benefits;

15 that are administered by the agency or political subdivision;
 16 before the agency or political subdivision may provide federal
 17 public benefits or state or local public benefits to the individual.

18 Sec. 9. An agency or a political subdivision is not required to
 19 meet the requirements of sections 7 and 8 of this chapter for any of
 20 the following:

- 21 (1) A purpose for which lawful presence in the United States
 22 is not required by law, ordinance, or regulation.
- 23 (2) Assistance for health care items and services that are
 24 necessary for the treatment of an emergency medical
 25 condition of the individual involved and are not related to an
 26 organ transplant procedure.
- 27 (3) Short term, noncash, in-kind emergency disaster relief.
- 28 (4) Public health assistance for:
 - 29 (A) immunizations with respect to a disease for which an
 30 individual may be immunized; and
 - 31 (B) testing and treatment of symptoms of communicable
 32 diseases regardless of whether symptoms are caused by a
 33 communicable disease.
- 34 (5) Programs, services, or assistance, including soup kitchens,
 35 crisis counseling and intervention, and short term shelter,
 36 specified by the United States Attorney General in the United
 37 States Attorney General's sole and unreviewable discretion
 38 after consultation with appropriate federal agencies and
 39 departments, that:
 - 40 (A) deliver in-kind services at the community level,
 41 including services through public or private nonprofit
 42 agencies;

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(B) do not condition the:

(i) provision of assistance;

(ii) amount of assistance provided; or

(iii) cost of assistance provided;

on a recipient's income or resources; and

(C) are necessary for the protection of life or safety.

(6) Prenatal care.

Sec. 10. An agency or a political subdivision shall verify the lawful presence in the United States of an individual described in section 8 of this chapter by requiring the individual to execute a verified affidavit stating that the individual is:

(1) at least eighteen (18) years of age; and

(2) either of the following:

(A) A United States citizen.

(B) A qualified alien who is lawfully present in the United States under the federal Immigration and Nationality Act.

Sec. 11. (a) If an individual executes an affidavit under section 10 of this chapter stating that the individual is a qualified alien lawfully present in the United States, an agency or a political subdivision shall verify the lawful presence of the individual to determine eligibility for federal public benefits or state or local public benefits through the SAVE program.

(b) An affidavit executed under section 10 of this chapter may be presumed to be proof of an individual's lawful presence in the United States under this chapter until eligibility is verified under this section.

Sec. 12. An agency or a political subdivision shall report any errors or significant delays by the SAVE program to the:

(1) United States Department of Homeland Security; and

(2) secretary of state.

Sec. 13. An agency or a political subdivision may adopt a variation of the requirements set forth in this chapter to:

(1) improve the efficiency of verifying an individual's lawful presence in the United States under this chapter;

(2) reduce delay in verifying an individual's lawful presence in the United States under this chapter; or

(3) provide for an adjudication in the case of unique individual circumstances under which the procedures set forth in this chapter would impose unusual hardship on a legal resident of Indiana.

Sec. 14. A person who knowingly or intentionally makes a false, fictitious, or fraudulent statement of representation in an affidavit

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executed under section 10 of this chapter commits a Class D felony.

Sec. 15. An agency may adopt rules and a political subdivision may adopt an ordinance or a resolution to carry out the requirements of this chapter.

SECTION 30. IC 22-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 1.5. Employment of Unauthorized Aliens

Sec. 1. This chapter does not apply to a public utility (as defined in IC 8-1-2-1(a)) that is subject to regulation by the Indiana utility regulatory commission under IC 8-1-2.

Sec. 2. As used in this chapter, "agency" means any state or local administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of government created or established by law that issues a license for purposes of operating a business in Indiana.

Sec. 3. As used in this chapter, "employee" means an individual who performs employment services for an employer.

Sec. 4. (a) As used in this chapter, "employer" means a person that:

- (1) transacts business in Indiana;
- (2) has a license issued by an agency; and
- (3) employs one (1) or more individuals who perform employment services in Indiana.

(b) The term includes the state, a political subdivision (as defined in IC 3-5-2-38) of the state, and a self-employed person.

Sec. 5. As used in this chapter, "license" means any agency permit, certificate, approval, registration, charter, or similar authorization that is:

- (1) required by law; and
- (2) issued by an agency;

for purposes of operating a business in Indiana.

Sec. 6. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or another legal entity.

Sec. 7. As used in this chapter, "pilot program" means the employment verification pilot program administered by the United States Department of Homeland Security and the Social Security Administration or its successor program.

Sec. 8. As used in this chapter, "unauthorized alien" has the meaning set forth in 8 U.S.C. 1324a(h)(3).

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1 **Sec. 9. A person may not knowingly employ an unauthorized**
 2 **alien.**

3 **Sec. 10. (a) The attorney general shall investigate a complaint**
 4 **filed with the attorney general that an employer knowingly**
 5 **employed an unauthorized alien in violation of section 9 of this**
 6 **chapter.**

7 **(b) In investigating a complaint under subsection (a), the**
 8 **attorney general shall verify the work authorization of the alleged**
 9 **unauthorized alien with the federal government under 8 U.S.C.**
 10 **1373(c).**

11 **Sec. 11. A state, county, or local official or employee may not**
 12 **attempt to make independently a final determination as to whether**
 13 **an individual is authorized to work in the United States.**

14 **Sec. 12. If, after an investigation, the attorney general**
 15 **determines that an employer has employed an unauthorized alien,**
 16 **the attorney general shall notify the following of the unauthorized**
 17 **alien:**

- 18 **(1) United States Immigration and Customs Enforcement.**
- 19 **(2) Local law enforcement agencies.**
- 20 **(3) The prosecuting attorney in the county in which the**
 21 **unauthorized alien is employed.**

22 **Sec. 13. (a) If a prosecuting attorney receives notification from**
 23 **the attorney general under section 12 of this chapter, the**
 24 **prosecuting attorney shall file an action against the employer for**
 25 **a violation of section 9 of this chapter.**

26 **(b) A prosecuting attorney may file only one (1) action against**
 27 **an employer for all unauthorized aliens employed by the employer**
 28 **at the time the prosecuting attorney files the action.**

29 **(c) A prosecuting attorney may file an additional action under**
 30 **this section for a second or subsequent violation of section 9 of this**
 31 **chapter only for violations the employer commits after the**
 32 **employer has received notice that the prosecuting attorney has**
 33 **filed an action under this section.**

34 **Sec. 14. If a prosecuting attorney files an action under section 13**
 35 **of this chapter, the court in which the action is filed shall hold a**
 36 **hearing and make a determination of the action on an expedited**
 37 **basis.**

38 **Sec. 15. (a) Except as provided in section 17 of this chapter, if a**
 39 **court determines that a person knowingly employed an**
 40 **unauthorized alien in violation of section 9 of this chapter, the**
 41 **following apply:**

- 42 **(1) The court shall do the following:**

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(A) Order the employer to terminate the employment of all unauthorized aliens employed by the employer.

(B) Place the employer on probation for a three (3) year period. During the probationary period, the employer shall file a quarterly report with the attorney general of each new individual the employer hires at the specific business location where the unauthorized alien worked.

(C) Order the employer to file a sworn affidavit signed by the employer with the prosecuting attorney within three (3) business days after the order is issued. The affidavit must include a statement that the employer:

(i) has terminated the employment of all unauthorized aliens; and

(ii) will not knowingly employ an unauthorized alien.

(2) The court, after considering the relevant factors listed in subsection (b), may order an agency to suspend, for not more than ten (10) business days, a license described in section 16(a) of this chapter.

(b) The court shall consider the following factors, if applicable, in suspending a license under subsection (a)(2):

(1) The number of unauthorized aliens employed by the employer.

(2) Any prior misconduct by the employer.

(3) The degree of harm resulting from the violation.

(4) The extent to which the employer made good faith efforts to comply with any applicable requirements under this chapter.

(5) The duration of the violation.

(6) The role of the directors, officers, or agents of the employer in the violation.

(7) Any other factors the court considers relevant.

Sec. 16. (a) This section applies to all licenses held by an employer that:

(1) are necessary to operate the employer's business at the employer's business location where an unauthorized alien worked; or

(2) if a license is not necessary at the employer's business location described under subdivision (1), are held by the employer for the employer's primary place of business.

(b) If an employer fails to file a sworn affidavit as required under section 15(a)(1)(C) of this chapter with the prosecuting attorney within three (3) business days after the order is issued, the

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1 court shall order the appropriate agencies to suspend all licenses
 2 that are held by the employer. All licenses suspended under this
 3 subsection must remain suspended until the employer files a sworn
 4 affidavit described under section 15(a)(1)(C) of this chapter with
 5 the prosecuting attorney.

6 (c) If the employer files a sworn affidavit described under
 7 section 15(a)(1)(C) of this chapter, the court shall order the
 8 appropriate agencies to reinstate the suspended licenses.

9 Sec. 17. If:

10 (1) a court determines that a person knowingly employed an
 11 unauthorized alien in a second or subsequent violation of
 12 section 9 of this chapter; and

13 (2) the violation under subdivision (1) occurred during the
 14 employer's period of probation under section 15(a)(1)(B) of
 15 this chapter;

16 the court shall order the appropriate agencies to permanently
 17 revoke all the employer's licenses as described in section 16(a) of
 18 this chapter.

19 Sec. 18. If an agency receives an order from a court under:

20 (1) section 15(a)(2) or 16(b) of this chapter, the agency shall
 21 suspend the license immediately; or

22 (2) section 17 of this chapter, the agency shall revoke the
 23 license immediately.

24 Sec. 19. A court shall send copies of all orders issued under
 25 sections 15, 16, and 17 of this chapter to the attorney general.

26 Sec. 20. (a) In determining whether an individual is an
 27 unauthorized alien under this chapter, a court may consider only
 28 the federal government's verification or status information
 29 provided under 8 U.S.C. 1373(c).

30 (b) The federal government's verification or status information
 31 provided under 8 U.S.C. 1373(c) creates a rebuttable presumption
 32 of an individual's lawful status.

33 (c) The court may:

34 (1) take judicial notice of the federal government's
 35 verification or status information; and

36 (2) request the federal government to provide automated or
 37 testimonial verification under 8 U.S.C. 1373(c).

38 Sec. 21. There is a rebuttable presumption that an employer did
 39 not knowingly employ an unauthorized alien if the employer
 40 verified the employment authorization of an individual through the
 41 pilot program.

42 Sec. 22. An employer may establish as an affirmative defense for

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a violation under section 9 of this chapter that the employer complied in good faith with the requirements of 8 U.S.C. 1324a(b).

Sec. 23. The attorney general shall:

- (1) maintain copies of court orders received under section 19 of this chapter;
- (2) establish and maintain a data base of the names and addresses of the employers that have a violation under this chapter; and
- (3) make the court orders available on the attorney general's Internet web site.

Sec. 24. This chapter does not require an employer to take any action that the employer believes in good faith would violate federal law.

Sec. 25. After December 31, 2008, an employer shall verify the employment eligibility of an employee through the pilot program after hiring the employee.

Sec. 26. A person who knowingly files a false or frivolous complaint with the attorney general under section 10 of this chapter commits a Class C misdemeanor.

SECTION 31. IC 23-17-31 IS ADDED TO THE INDIANA AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 31. Offenses Relating to Illegal Aliens

Sec. 1. (a) A domestic corporation or a foreign corporation that provides assistance, including goods or services, to an individual who is not lawfully in the United States commits providing assistance to an illegal alien, a Class D infraction.

(b) If a court enters a judgment that a domestic corporation or foreign corporation provided assistance to an individual who is not lawfully in the United States, the court shall transmit a copy of the judgment to the department of state revenue in accordance with IC 34-54-12-1.

(c) It is a defense to a prosecution under this section that the domestic corporation or foreign corporation that provided assistance to an individual who is not lawfully in the United States required the individual to provide government issued identification, including a driver's license, identification card, passport, birth certificate, Social Security number, or taxpayer identification number, before the domestic corporation or foreign corporation provided the assistance to the individual.

SECTION 32. IC 28-1-2-40 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2008]: **Sec. 40. A financial institution may not provide financial services to an individual who is:**

- (1) present in the United States; but
- (2) not lawfully present in the United States.

SECTION 33. IC 34-54-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 12. Transmit Copies of Judgments

Sec. 1. Upon entry of a judgment for an offense concerning provision of assistance to an illegal alien by a nonprofit corporation under IC 23-17-31-1, the court shall transmit a copy of the judgment to the department of state revenue.

SECTION 34. IC 35-44-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 5. Offenses Relating to Illegal Aliens

Sec. 1. As used in this chapter, "alien" has the meaning set forth in 8 U.S.C. 1101(a).

Sec. 2. (a) Subject to section 4 of this chapter, a person who:

- (1) transports; or
- (2) moves;

an alien knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law commits transporting an illegal alien, a Class A misdemeanor.

(b) The offense in subsection (a) is a Class D felony if the person has a prior unrelated conviction under subsection (a).

Sec. 3. (a) Subject to section 4 of this chapter, a person who:

- (1) conceals;
- (2) harbors; or
- (3) shields from detection;

an alien knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law commits harboring an illegal alien, a Class A misdemeanor.

(b) The offense in subsection (a) is a Class D felony if the person has a prior unrelated conviction under subsection (a).

Sec. 4. This chapter does not prohibit or restrict providing one (1) or more the following:

- (1) A state or local public benefit described under 8 U.S.C. 1621(b).
- (2) Regulated public health services provided by a private charity using private funds.

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SECTION 35. IC 36-2-13-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7.5. (a) The sheriff shall make a reasonable effort to determine the citizenship or immigration status of a person who is:**

(1) charged with a felony or with operating a vehicle while intoxicated; and

(2) confined, for any period, in a county jail.

(b) If the person described under subsection (a) is a foreign national, the sheriff shall make a reasonable effort to verify that:

(1) the person has been lawfully admitted to the United States; and

(2) if the person has been lawfully admitted, the lawful status of the person has not expired.

(c) If the sheriff is unable to verify the lawful status of a person described under subsection (a) from documents in possession of the person, the sheriff shall attempt to verify the lawful status of the person not later than forty-eight (48) hours through a query to the Law Enforcement Support Center of the United States Department of Homeland Security or other office or agency designated for the purpose of verifying the lawful status of person by the United States Department of Homeland Security.

(d) If the sheriff is unable to verify the lawful status of a person under this section, the sheriff shall notify the United States Department of Homeland Security that the lawful status of a person described under subsection (a) could not be verified.

SECTION 36. [EFFECTIVE JULY 1, 2008] Notwithstanding IC 22-5-1.5-13, as added by this act, a prosecuting attorney may file an action against an employer under IC 22-5-1.5-13, as added by this act, only for a violation of IC 22-5-1.5-9, as added by this act, that occurs after December 31, 2008.

SECTION 37. [EFFECTIVE JULY 1, 2008] IC 35-44-5-2 and IC 35-44-5-3, both as added by this act, apply only to crimes committed after June 30, 2008.

SECTION 38. [EFFECTIVE JULY 1, 2008] (a) Not later than July 1, 2009, the superintendent of the state police department shall report the progress of entering into a memorandum of understanding as described in IC 10-11-2-21.5, as added by this act, to the legislative council. The report must be in an electronic format under IC 5-14-6.

(b) This SECTION expires December 31, 2009.

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